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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

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2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

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1:10 P.M.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Michael Paparian, Chairperson

Steve Jones

Cheryl Peace

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Michael Bledsoe, Acting Chief Counsel

Howard Levenson, Deputy Director

Mark de Bie

Willy Jenkins

Bill Marciniak

Wes Mindermann

Laura Niles

Sue O'Leary

Dianne Ohiosumua

Virginia Rosales

Scott Walker

ALSO PRESENT

Steve Calvage, Sacramento County LEA

Mohammed Nuru, San Francisco Department of Public Works

Randy Reyes, LEA

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1 PROCEEDINGS

2 CHAIRPERSON PAPARIAN: Good afternoon, everybody.

3 This is the Permitting and Enforcement Committee. I'm

4 Mike Paparian, Chair of the Committee.

5 And we'll start with a roll call to establish a
6 quorum.

7 Secretary, will you please call the roll.

8 SECRETARY KUMPULAINIEN: Jones?

9 COMMITTEE MEMBER JONES: Here.

10 SECRETARY KUMPULAINIEN: Peace?

11 COMMITTEE MEMBER PEACE: Here.

12 SECRETARY KUMPULAINIEN: Paparian?

13 CHAIRPERSON PAPARIAN: Here.

14 And then just as a reminder, if you have a cell
15 phone or pager, if you can turn it off or turn it to the
16 vibrate mode to keep us from being interrupted during this
17 Committee meeting, we'd appreciate it.

18 If you want to speak on any item, there are
19 speaker slips in the back of the room. Fill one out and
20 give it to Ms. Kumpulainien here in the front of the room.

21 Do any Board members have ex partes?

22 Mr. Jones.

23 COMMITTEE MEMBER JONES: I'm up to date.

24 CHAIRPERSON PAPARIAN: Mrs. Peace?

25 COMMITTEE MEMBER PEACE: I'm up to date.

1 CHAIRPERSON PAPARIAN: And I'm up to date.

2 I think we can jump right into the agenda.

3 Mr. Levenson, do you want to have -- actually, do
4 you have a Deputy Director's report?

5 Go ahead.

6 DEPUTY DIRECTOR LEVENSON: Good afternoon, Mr.
7 Chair and Committee members. Howard Levenson with
8 Permitting and Enforcement Committee -- I mean Division.

9 I've got three things I'd like to update you on
10 today. One, very quickly, it's just to remind everyone
11 that we have the 7th annual LEA/CIWMB partnership
12 conference. It's going to be held at the Holiday Inn in
13 downtown Sacramento on March 12th -- 10th through 12th.

14 And we'll be having a variety of field trips,
15 including taking LEAs over to the Recycle Trade Show for
16 some cross-fertilization in that area.

17 Last month -- the second item. Last month you
18 asked me to provide you with an overview and a status
19 report on the implementation of AB 1497. As you know,
20 this was signed into law in October. And it becomes
21 effective on January 1st. The bill contains three major
22 provisions. And I'll give you a little bit of a rundown
23 on that and what we're doing with those.

24 First is a labor transition plan. This requires
25 the operator of a solid waste landfill when they are

1 submitting their final closure plan to the LEA to also
2 submit what's called in the statute a Labor Transition
3 Plan. This plan must include provisions to ensure
4 preferential reemployment and transfer rights of displaced
5 employees. And the operator must certify that the plan
6 will be implemented.

7 It's our understanding that the Legislature's
8 intent in enacting this was to place primary
9 responsibility for compliance on landfill owners and
10 operators and to limit the responsibility of LEAs and the
11 CIWMB.

12 As follow-up steps, we're developing guidance on
13 this provision, including a model certification form. And
14 we'll be working with the Legal Office, EAC, CCDEH and
15 others to complete and distribute this guidance to all
16 landfill operators and enforcement agencies in the next
17 couple of weeks, prior to January 1st.

18 The second major set of provisions in the law was
19 with respect to administrative civil penalties. And the
20 major things that happened in that legislation were it
21 removed the \$15,000 per year cap on the imposition of
22 penalties. It also removed the prohibition on imposing an
23 administrative civil penalty for the first three minor
24 violations of a standard. So that was something we had
25 sought in previous years, and we're glad to have that

1 provision enacted.

2 The last major provision is regarding the public
3 hearing and also the linkage with significant change.
4 This requires the LEA to hold a public hearing before
5 making a determination on an application for a revised
6 permit with noticing requirements pursuant to Government
7 Code Section 65091.

8 The bill does provide some additional time for
9 the LEA to make this determination. For example, it
10 increases the amount of time to make a determination from
11 60 days -- excuse me -- from 30 days after receipt of the
12 application to 60 days.

13 It also authorizes the Board, to the extent
14 resources are available, to adopt regulations implementing
15 the public hearing provision. As follow-up steps, the
16 Board will be assessing its 2004 rulemaking calendar at
17 this month's full Board meeting. And included in that
18 potential list is the development of regulations on this
19 provision.

20 In any event, we obviously cannot adopt
21 regulations prior to the effective date of the bill, which
22 is January 1st. But the public hearing procedures set
23 forth in the statute are specific enough to implement
24 directly until the regulations can be developed. That is,
25 enforcement agencies must hold a public hearing for any

1 application for a permit revision received on or after
2 January 1st.

3 However, I also want to note that the current
4 requirements in the C&D inert debris processing
5 regulations exceed AB 1497's public hearing provisions in
6 several ways. And without going into details on that, I
7 would just indicate that we are scheduling an item on the
8 applicability of the C&D Phase 1 requirements to other
9 solid waste packages for the January board meeting. So at
10 that time or subsequently you may wish to provide further
11 direction on how to handle these public hearing
12 requirements.

13 Lastly, I want to give you a quick update on the
14 southern California fire situation. We continue to
15 provide staff at the San Diego disaster field office and
16 at the San Bernardino disaster field office. And I
17 particularly want to thank Bill Marciniak and Diann
18 Ohiosumua for being at those offices.

19 The most recent development concerns the
20 circumstances under which FEMA will provide reimbursement
21 for debris that is removed from private property. This is
22 a critical issue because one-third of the destroyed homes
23 in San Diego County are not insured and another one-third
24 are under-insured. If the officials and property owners
25 cannot get assurance of reimbursement from FEMA, then

1 given the local budget constraints, some of the material
2 is likely to remain on sites for years perhaps.

3 And of course at the local and state level we and
4 other agencies, including OES, Toxics, the Water Board and
5 others, have all expressed concerns to FEMA that this
6 material must be removed quickly, and it has to be --
7 should be done by professionals who are properly trained
8 and equipped. We all have a lot of concerns about
9 untrained individuals being exposed, physical hazards, air
10 dispersion, and of course the rainy season resulting in
11 carrying of this -- some of this material into waterways
12 in the county.

13 FEMA seems to have switched course very recently
14 and may only consider allowing reimbursement if an
15 imminent hazard is shown to be -- can be demonstrated.
16 However, they've not provided any specific definitions or
17 standards on what this means or on what kind of data is
18 needed.

19 So the agencies over the last -- actually, Friday
20 and Saturday a number of people were trying to gather
21 existing data from this fire and previous fires as well as
22 develop a potential scope of work for testing some of
23 these sites so that FEMA would have sufficient information
24 to be comfortable in providing reimbursement for clearance
25 from private property.

1 So this is a dynamic situation right now, clearly
2 is something that is critical to resolve, and probably
3 needs attention from -- at the political level from the
4 Governor and congressional delegations.

5 So I wanted to alert you to that development.

6 That, unless you have any questions, is all I
7 have to report today. And otherwise we can move on to the
8 agenda.

9 CHAIRPERSON PAPARIAN: Could I ask a quick
10 question about the 1497 implementation.

11 You said that the public hearing requirement will
12 apply to any application that comes in after January 1st.
13 That would be the 1st receipt of an application by an LEA
14 for a proposal?

15 DEPUTY DIRECTOR LEVENSON: Michael, do you want
16 to -- it's only for a revised permit application. And --

17 ACTING CHIEF COUNSEL BLEDSOE: And I'd actually
18 like to take a look and figure out whether that would be
19 the initial application or whether that's the receipt of a
20 complete and correct application.

21 CHAIRPERSON PAPARIAN: Right. Because I --
22 hopefully nobody would do this, but I would be concerned
23 of someone trying to get around by trying to send
24 something in that may not be quite complete or not quite
25 right in order to beat the January 1st deadline. So I

1 think we probably need to be clear on what's in and what's
2 out.

3 ACTING CHIEF COUNSEL BLEDSOE: Yes.

4 CHAIRPERSON PAPARIAN: Any other questions?

5 Mr. Jones.

6 COMMITTEE MEMBER JONES: Thanks, Mr. Chair.

7 On LEAs' certifications, the process that goes
8 through, there is a schedule that you guys try to keep on.
9 I guess my antenna are up as a result of the last Board
10 meeting and the permit that got pulled and then the LEA
11 came forward and said that, you know, all composting
12 facilities create an issue and this and that.

13 I know that the proponents of the site had talked
14 about CEQA not being followed even though that LEA had
15 affirmed that everything was done. I'd like, if it's okay
16 with the other members, to at least have an idea of how
17 that allegation by those proponents -- or opponents --
18 sorry -- opponents were -- how they really fit into this
19 thing. Because to make a blanket statement that all these
20 facilities are bad didn't make a whole lot of sense to me
21 since I had been at that site at 9 o'clock at night and
22 didn't smell any of those odors and had heard testimony
23 from their staff that that site was a well run staff, and
24 then at the end of one meeting all of a sudden these sites
25 should never be permitted.

1 I want to find out more about that, because I
2 think -- I think jeopardizing solid waste facilities for
3 no other reason than to keep your own happy little home
4 happy doesn't serve the public good. So I would really
5 want to see some investigation into those allegations and
6 where that would have taken this issue, because I think
7 it's pretty clear I support LEAs pretty adamantly when
8 they do their jobs. But I don't want to see a whole solid
9 waste part of the infrastructure destroyed because
10 somebody decided to do a little CYA. So it's important to
11 me to know exactly what the outcome of the CEQA issues
12 were because they had deemed that permit complete.

13 DEPUTY DIRECTOR LEVENSON: Mr. Jones, if I could
14 just seek a little clarification on what you would like.
15 Would you like that as part of -- we certainly would look
16 at LEA performance as part of the regular LEA evaluation.
17 Are you looking for something -- more of an explanation of
18 where the CEQA process is and what happened in that
19 situation?

20 COMMITTEE MEMBER JONES: There was a permit that
21 went forward.

22 DEPUTY DIRECTOR LEVENSON: I understand. And I
23 recall the conversation with Mr. Avera at the end of the
24 meeting, so --

25 COMMITTEE MEMBER JONES: And that LEA had said

1 that that thing was complete. L.A. Power and Water said
2 that CEQA issues hadn't been adequately addressed.
3 There's a public meeting, and then all of a sudden we
4 should never do another compost facility permit. That
5 creates some real confusion.

6 DEPUTY DIRECTOR LEVENSON: I'm just wondering how
7 you would like --

8 CHAIRPERSON PAPARIAN: Yeah, let me suggest this.
9 But my hesitation is not to get the information that Mr.
10 Jones desires. But my concern is if we bring something
11 like this back so specific, we almost have to agendize it.
12 Probably we should agendize the actual facility in some
13 way to allow anybody who wanted to talk about the issue to
14 talk about it.

15 Let me just suggest that maybe if you could work
16 with Mr. Jones and try to get the information or
17 clarifications he wants from the LEA. Then if there is
18 some general issue, let's talk then about whether some
19 general issue should come back to the Board.

20 And as an alternative -- I don't know if this
21 facility permit is going to come back or not. But if it
22 comes back as an agenda item, that would be, you know, the
23 perfect opportunity for all parties concerned to discuss
24 the specifics related to that facility.

25 But, again, I'd kind of hesitate to bring

1 something up that would be specific to that facility
2 unless we agendized that facility so that all the
3 interested parties would have the opportunity to comment.

4 COMMITTEE MEMBER JONES: I appreciate that. Mine
5 was more in the line of the LEA evaluation, because that's
6 an internal discussion. And I guess what I was hoping was
7 that they do some work to figure out, you know, internally
8 what that is and make it part of the LEA evaluation.

9 But any way you want to do it is fine. That's --

10 DEPUTY DIRECTOR LEVENSON: We certainly can do
11 that. And I can get you the schedule as to when that
12 evaluation is planned.

13 CHAIRPERSON PAPARIAN: And then just -- as we
14 move on to the agenda, Mr. Levenson, maybe we should just
15 be clear for anybody listening in, there's one or two -- I
16 think two items that have been pulled from the agenda, is
17 that right?

18 DEPUTY DIRECTOR LEVENSON: That is correct. And
19 let me just get the proper numbers.

20 Item H on central disposal and Item J on
21 extension of a completion date for Cajon illegal disposal
22 site have both been pulled. Those are Board Meeting Nos.
23 7 and 9.

24 If we're ready to proceed to the first item, we
25 have two items related to the 2136 cleanup program. The

1 first one is consideration of contractors for the
2 Environmental Services contracts for landfill and disposal
3 site remediation from the Solid Waste Disposal Site
4 Cleanup Trust Fund, Fiscal Year 2003-2004.

5 Wes Mindermann will be making the presentation on
6 this.

7 (Thereupon an overhead presentation was
8 Presented as follows.)

9 MR. MINDERMAN: Good afternoon, Mr. Chairman and
10 members of the Committee.

11 The item before you asks the Board to consider
12 approval of awarding of two cleanup contracts under the
13 Solid Waste Cleanup Program.

14 --o0o--

15 MR. MINDERMAN: Before we get too far into the
16 item, I thought it might be good to go over a little bit
17 of the legislative history here.

18 Public Resources Code Section 48021(b)
19 specifically authorizes the Board to expend funds directly
20 for cleanup, which allows us to contract out.

21 If you move down to Section 48027(a)(2), you can
22 see a provision in the legislation that finds that the --
23 that it's essential that the money in the trust fund be
24 used solely for the purposes authorized in this article
25 and that it not be used, loaned or transferred for any

1 other purposes, which is a really relevant section for
2 reasons which I'll get into a little bit later.

3 Moving down further, you can see 48027 says the
4 money in the trust fund's continuously appropriated
5 without regard to fiscal year. So we can use previous
6 money in the trust fund for these contracts.

7 --o0o--

8 MR. MINDERMAN: Just to give you an idea of our
9 current contracting situation. We have two classes of
10 contractors:

11 One for landfill and disposal site remediation,
12 under which we have two contractors, specifically A.J.
13 Diani Construction Company and Irv Guinn Construction
14 Company are our current contractors. Those contracts are
15 set to expire in May 2004.

16 Under engineering services we have Brian A.
17 Steritt and Associates. They're primarily our consultant
18 in this program. And that contract will expire in May
19 2005.

20 The two contracts we're specifically talking
21 about replacing today are the top two, the landfill and
22 disposal remediation contractors.

23 --o0o--

24 MR. MINDERMAN: Give you a little bit of the
25 status of these contracts right now. They were executed

1 in December of 2001. As I said earlier, they expire in
2 May 2004. They were not to exceed 3.25 million and a
3 little over 5 million in Diani and Guinn, respectively.

4 Right now we have a million and a quarter left in
5 the Diani contract and 226,000 left in the Guinn
6 Construction contract.

7 Now, initially looking at that you may think that
8 there's a lot of money left. When you consider that we
9 have -- probably are currently working on about \$1.75
10 million in previously approved projects that we're trying
11 to get completed. And those projects, we're working on
12 them to get the permits, to work with the responsible
13 parties, and to get the contracts all lined up.

14 So we're working on a backlog. I just wanted to
15 point that out because essentially these contracts are
16 fully depleted.

17 --oOo--

18 MR. MINDERMAN: I thought I'd go over a little
19 bit on the Request For Qualifications process, which is
20 how these contracts are awarded. It's really important to
21 remember that the mandate here is to determine the best
22 qualified firm to do the work. We interviewed several
23 excellent companies. I'll stipulate that they were all
24 very well qualified to do the work. But our mandate is to
25 determine the best qualified.

1 And going down there, you can see you approved
2 the contract concept and scope of work and selection
3 criteria. The companies submit statements of
4 qualifications, which are initially reviewed by the
5 Contracts Office for completeness, and then submitted to a
6 selection committee for review and ranking. Based on that
7 review and ranking, then we invite at least three
8 companies to be interviewed. And then the selection
9 committee then interviews those companies and ranks those
10 companies. And then we award to the top two companies,
11 subject to the negotiation of acceptable rates.

12 --o0o--

13 MR. MINDERMAN: Basically how this process
14 worked, eight companies submitted complete SOQ's. The top
15 five ranked companies were interviewed by the selection
16 committee. And the top two companies as recommended by
17 the selection committee were A.J. Diani Construction
18 Company and Irv Guinn Construction Company.

19 Program staff subsequently entered into
20 negotiations and we've completed successful negotiations
21 and are recommending award to those two companies.

22 --o0o--

23 MR. MINDERMAN: In conclusion, these contracts
24 are necessary to complete the Board-managed projects under
25 the Solid Waste Cleanup Program.

1 Before I go any further, I'd also like to point
2 out that Board staff are aware of the Executive Order S403
3 that was signed on Friday by Governor Schwarzenegger
4 relating to contracting and also the relevant budget
5 orders pertaining to that executive order. Program staff
6 will be working with the Legal staff and the Contracts
7 Office staff to try and move forward with this process
8 under a revised resolution. We think we can put some
9 wording into the resolution that will allow us to move
10 forward and award these contracts contingent upon meeting
11 the provisions of that Executive Order.

12 CHAIRPERSON PAPARIAN: Yeah, thank you. I also
13 have spoken to the Legal staff about this, too. And I
14 think that when we do the resolution on this, we can ask
15 that a "Resolved" clause be added to the effect that the
16 approval of the contracts is subject to the provisions of
17 the Executive Order and the related budget orders.

18 And then the Legal staff I think between now and
19 the Board meeting can put that in the proper phraseology.
20 But I think when we get to it, what we'll be voting on is
21 basically the resolution as it is, with the addition of
22 language that recognizes that there is this Executive
23 Order related to contracts and that we may be subject to
24 it with this proposal.

25 MR. MINDERMAN: Okay. We'll work -- again,

1 staff will work with the Legal Office and Contracts Office
2 to put that language together for consideration by the
3 Board at the Board meeting.

4 One last thing. I usually get asked this. And I
5 wanted to put this up here in case any of you had
6 questions relating to the status of the trust fund. As
7 you can see, as of the 31st of July, the beginning of the
8 fiscal year, we estimated we had 6.7 million in an
9 unreserved balance. We were budgeted for a \$5 million
10 transfer for Fiscal Year 2003-2004. You can see the
11 approved encumbrances that weren't included in that
12 unreserved balance. And if you get down to -- the bottom
13 line is if you do choose to award these contracts for \$1.5
14 million each, or a total of \$3 million, the unreserved
15 balance would be \$5.3 million for grants and loans.

16 CHAIRPERSON PAPARIAN: Okay. Questions, members?
17 Mrs. Peace.

18 COMMITTEE MEMBER PEACE: So we're using the same
19 contractors as we had last year?

20 MR. MINDERMAN: That's correct. You know, the
21 results of the process were that the same two contractors
22 won these contracts.

23 COMMITTEE MEMBER PEACE: And how does it go out
24 so that everyone knows about this? I mean how is it
25 advertised to other contractors?

1 MR. MINDERMANN: Typically, the Request For
2 Qualifications is advertised on the Board net. I'm not
3 sure if there's a mailing list. But typically our -- also
4 there's the contracts register. So these are typical
5 places where Requests For Qualifications, Requests For
6 Proposals and other proposed contract awards are
7 submitted.

8 COMMITTEE MEMBER PEACE: And these two companies,
9 Diani and Guinn, where are they located?

10 MR. MINDERMANN: A.J. Diani Construction Company
11 is out of Santa Maria, California, and Irv Guinn
12 Construction Company is out of Bakersfield, California.

13 COMMITTEE MEMBER PEACE: And so you -- okay, you
14 said that the contracts that we have now are almost
15 depleted. The funds that you're putting in now, can they
16 be used then before May 2004, or are these to be used --

17 MR. MINDERMANN: Let's see. The contracts that
18 we'd be putting into these -- or the funds that we'd be
19 putting into these contracts, these contracts would be set
20 to expire May 2006. So the funds would be available in
21 that contract --

22 COMMITTEE MEMBER PEACE: But would they be
23 available before a May of 2004 if you --

24 MR. MINDERMANN: We're hoping to -- I mean
25 subject to meeting the provisions of the Executive Order

1 and the Board awarding these contracts, we'd like to get
2 these contracts executed in January of 2004.

3 COMMITTEE MEMBER PEACE: So there isn't any gap
4 in services?

5 MR. MINDERMANN: That's right. One of the key
6 things is to have no gap in services. Of course we would
7 be looking to use the old contract money first. If there
8 was a project that we could complete prior to the end date
9 of the current contracts, we would be moving to get that
10 project completed under our existing contracts. But that
11 date is rapidly approaching.

12 COMMITTEE MEMBER PEACE: Right.

13 Okay. Thank you.

14 CHAIRPERSON PAPARIAN: Mr. Jones.

15 COMMITTEE MEMBER JONES: Thanks, Mr. Chair.

16 I'll move adoption of Resolution 2003-502
17 revised, consideration of the contractors for the
18 Environmental Services Contract for landfill and disposal
19 site remediation, with the addition of the new "Therefore
20 be it Resolved" and the language dealing with the
21 Executive Order and the sign-off from the Secretary or
22 Department of Finance, whoever has to deal with that.

23 CHAIRPERSON PAPARIAN: Yeah, I think the Legal
24 Office will figure out -- we just got the Executive Order
25 this morning. The Legal Office will figure out what the

1 appropriate language is.

2 ACTING CHIEF COUNSEL BLEDSOE: Yes.

3 COMMITTEE MEMBER PEACE: Okay. Second.

4 CHAIRPERSON PAPARIAN: Okay. We have a motion
5 and a second.

6 Secretary call the roll.

7 SECRETARY KUMPULAINIEN: Jones?

8 COMMITTEE MEMBER JONES: Aye.

9 SECRETARY KUMPULAINIEN: Peace?

10 COMMITTEE MEMBER PEACE: Aye.

11 SECRETARY KUMPULAINIEN: Paparian?

12 CHAIRPERSON PAPARIAN: Aye.

13 Now, we don't have a Budget and Admin Committee
14 meeting. But I think this would be a candidate for fiscal
15 consent, which would be a shortened presentation at the
16 Board meeting. And then we would have the final wording
17 of the resolution at that time also.

18 COMMITTEE MEMBER PEACE: Yes.

19 COMMITTEE MEMBER JONES: Works for me.

20 CHAIRPERSON PAPARIAN: Good.

21 DEPUTY DIRECTOR LEVENSON: Very good.

22 Item 2, Agenda Item C, is consideration of new
23 projects for the Solid Waste Disposal and Codisposal Site
24 Cleanup Program.

25 And Wes will again be making this presentation.

1 (Thereupon an overhead presentation was
2 Presented as follows.)

3 MR. MINDERMAN: Let's see here.

4 Okay. The item before you today is consideration
5 for approval of new projects under the Solid Waste
6 Disposal and Codisposal Site Cleanup Program.

7 --o0o--

8 MR. MINDERMAN: Moving through I thought it
9 might be helpful to give you a little summary of what
10 we've done -- what we have done during this fiscal year to
11 date.

12 You approved two projects: One, a Board-managed
13 project, which was actually recently completed; and
14 another Illegal Disposal Site Cleanup Grant prior to this
15 date.

16 What we're proposing today is an Illegal Disposal
17 Site Cleanup Grant to the City of San Francisco Department
18 of Public Works in the amount of \$500,000. And we're
19 recommending a waiver of cost recovery.

20 --o0o--

21 MR. MINDERMAN: Again, the grantee would be the
22 City and County of San Francisco Public Works Department.
23 They are proposing cleaning up 25 chronic illegal disposal
24 sites on public property throughout the city. Actually
25 not throughout the city. I'm going to make a correction.

1 Actually primarily in the Bay View Hunters Point District,
2 Excelsior District, and the outer Mission area.

3 In accordance with the Board-approved grant
4 scoring criteria, this grant was reviewed by a scoring
5 committee consisting of one program staff, one member from
6 the Grants Administration Unit, and one member from
7 outside the program, and received a score of 67, which is
8 above the minimum score of 60, which would make this grant
9 eligible for funding.

10 --o0o--

11 MR. MINDERMAN: Under their proposed budget, the
12 grant funds would be going for cleanup labor costs only.
13 The grantee would bear the other costs for cleanup,
14 stakeout, and signage mitigation costs; inspection; and
15 the remote camera enforcement pilot program that they're
16 proposing.

17 There's an error on this table obviously. The
18 total project here would be about \$1.3 million, of which
19 the Board would be paying \$500,000 through its grant.

20 The cleanup labor costs are specifically eligible
21 under the regulation. So there's no discretionary
22 decision on whether or not it's allowable by the Board.

23 --o0o--

24 MR. MINDERMAN: Boy, I got to get this left
25 side.

1 In short, the project is an Illegal Disposal Site
2 Cleanup Grant to the city. It's eligible for program
3 funding. And staff are recommending that the Board
4 approve the project and adopt Resolution 2003-503.

5 I want to mention that we do have members -- or
6 representatives from San Francisco in the audience.

7 CHAIRPERSON PAPARIAN: I do have a speaker's slip
8 from Mohammed Nuru and Anna La Forte from the Department
9 of Public Works in San Francisco.

10 Would you like to add anything?

11 MR. NURU: Good afternoon. Thank you for having
12 us up here.

13 CHAIRPERSON PAPARIAN: If you could identify
14 yourself also.

15 MR. NURU: My name is Mohammed Nuru. I'm the
16 Deputy Director for Operations for the City and County of
17 San Francisco, over at the Department of Public Works.

18 Let me start by thanking you for having us up
19 here today. Over the last year we have worked in great
20 collaboration with staff from your office.

21 The grant will be used primarily in the southeast
22 part of San Francisco; for many of you who don't know, is
23 a major part of illegal dumping in San Francisco. A lot
24 of contractors who work downtown in San Francisco will
25 choose to go dump illegally as opposed to taking it to

1 landfills. The Department is working aggressively to
2 organize stakeouts and catch a lot of the people illegally
3 dumping.

4 A lot of other dumping occurs from people who are
5 moving from different apartments. They choose to go and
6 dump illegally. We're working aggressively with our law
7 enforcement agencies, with a lot of community people, and
8 we are trying to reduce the amount of dumping.

9 But we definitely need your assistance here, and
10 appreciate all the help that you have given us.

11 CHAIRPERSON PAPARIAN: Thank you.

12 Any questions?

13 Mrs. Peace.

14 COMMITTEE MEMBER PEACE: I think it's great, you
15 have a litter court.

16 MR. NURU: Yes, as part of the work that we've
17 been doing, we started a litter court in San Francisco.
18 And litter court is heard by administrative judges. And
19 it's been working really good. So we're happy to have
20 that working now. We took it out of the regular court
21 system and created a litter court.

22 CHAIRPERSON PAPARIAN: Mr. Jones.

23 COMMITTEE MEMBER JONES: Thanks, Mr. Chair.

24 I think most of the lands that you're talking
25 about are public lands.

1 MR. NURU: Yes, sir.

2 COMMITTEE MEMBER JONES: They're not just
3 roads -- they're not just sidewalks. They're lots and
4 things like that, right?

5 MR. NURU: They're lots, yes.

6 COMMITTEE MEMBER JONES: So is it safe to assume
7 that most of them are from -- or some of those are from
8 tax seizures and forfeitures and things like that?

9 MR. NURU: Some of them are from such properties.
10 A majority of them are from what we call paper streets,
11 streets in the southeast that -- when a street ends and a
12 street hasn't been built and they've been left abandoned.
13 And a lot of the area are mostly light industrial areas.
14 And so at night, which is when most of this activity
15 happens, contractors and people who know the city pretty
16 well choose to go and dump illegally.

17 COMMITTEE MEMBER JONES: Okay. Could I just ask
18 one question.

19 I don't think it's going to happen; but, you
20 know, it's State money, so you've got to kind of look
21 after these things. If any of those parcels were to leave
22 the City of San Francisco's hands in some form of a sale
23 to somebody after we had cleaned it up, that would be an
24 inappropriate use of taxpayer dollars. So have we thought
25 about -- and I'm not saying it's going to happen, but we

1 ought to probably think about a little caveat that says
2 that if this -- as long as this doesn't get transferred
3 over the next, you know, year or so, that everything is
4 cool. But if the city decides to sell this to somebody
5 after we've spent money to clean it up, we ought to get
6 our money back.

7 Is that a reasonable insurance for us?

8 MR. NURU: That's very reasonable.

9 CHAIRPERSON PAPARIAN: Is that okay with --

10 That's a good point. I think that makes a lot of
11 sense.

12 COMMITTEE MEMBER JONES: I'm not saying it's
13 going to happen. I just think it's always safe -- it's
14 always better to be safe than embarrassed.

15 So if there -- it doesn't look like there's
16 objections.

17 CHAIRPERSON PAPARIAN: Any problem with that from
18 staff or Legal?

19 No.

20 DEPUTY DIRECTOR LEVENSON: I think we can work
21 that out in the terms and conditions of the grant
22 agreement.

23 COMMITTEE MEMBER JONES: It just gives us both
24 clarity.

25 I appreciate it.

1 Thank you, Mr. Chair.

2 CHAIRPERSON PAPARIAN: And then I wanted to add
3 one thing. I understand why the funding shift happened
4 away from the -- well, shifting the funding of the remote
5 surveillance and stakeout to the city, and then we absorb
6 more of the labor-related costs. I think in terms of, you
7 know, wise use of our funds in the future, it would be
8 good for us to encourage localities to engage in this sort
9 of remote surveillance activities, especially at locations
10 where you might have dumping periodically but clearly not
11 enough to have somebody sit there all night long. And I
12 know other states have been quite successful with the
13 newer and cheaper technologies that are available for
14 remote surveillance.

15 So what I was just going to suggest in this
16 context was if we could get some information back that we
17 might be able to share with other localities and other --
18 with LEAs and others about the success or what is learned
19 from the remote surveillance activities here, I think it
20 might be useful information that other localities would
21 perhaps want to learn from and perhaps use.

22 MR. MINDERMANN: We certainly could do that, Mr.
23 Paparian. We typically collect that information as part
24 of our final report.

25 And I want to be very clear here, that there is

1 no requirement, you know, other than the City and County
2 of San Francisco has voluntarily proposed to do this as
3 part of their \$1.3 million illegal dumping cleanup
4 program. You know, we at staff highly encourage them to
5 do that.

6 You know, the one thing we've learned is that no
7 matter how fast we run out to pick up illegal dumping,
8 that's not an effective solution to the problem.

9 The other thing I've learned is -- at least
10 looking at this on a statewide perspective is nobody
11 really has a good solution at this point. So we're always
12 trying to work with jurisdictions. We are -- we worked
13 with San Francisco previously to try some different things
14 on public education and outreach. We're working with the
15 City of Oakland, the city of Vallejo, and the City of
16 Pomona. We had Pilot Enforcement Program previously. So
17 we're collecting that information. And then we're going
18 to look at it, and then hopefully we can figure out a good
19 way to disseminate it to the other people who would be
20 interested in looking at it.

21 CHAIRPERSON PAPARIAN: Okay. Good.

22 Anything else?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: Thank you, Mr. Chair.

25 I'll move adoption of Resolution 2003-503,

1 consideration of new projects for the Solid Waste Disposal
2 and Codisposal Site Cleanup Program, with the
3 understanding that you guys are going to put in some
4 language about transfer in a one-year period in the actual
5 agreement.

6 COMMITTEE MEMBER PEACE: Second.

7 CHAIRPERSON PAPARIAN: Okay. There's a motion
8 and a second.

9 Secretary, call the roll.

10 SECRETARY KUMPULAINIEN: Jones?

11 COMMITTEE MEMBER JONES: Aye.

12 SECRETARY KUMPULAINIEN: Peace?

13 COMMITTEE MEMBER PEACE: Aye.

14 SECRETARY KUMPULAINIEN: Paparian?

15 CHAIRPERSON PAPARIAN: Aye.

16 And I think, again, this would be a candidate for
17 the fiscal consensus.

18 COMMITTEE MEMBER JONES: Mr. Chair?

19 CHAIRPERSON PAPARIAN: Mr. Jones.

20 BOARD MEMBER JONES: Just real briefly I want to
21 thank the people from the City of San Francisco. Having
22 done business there for most of my career, I felt bad for
23 those areas. And they were basically ignored except for
24 about the last three or four years, five years. So you
25 guys are doing a good job. Keep working at it.

1 DEPUTY DIRECTOR LEVENSON: Okay. Give me a
2 couple seconds for staff to come up for Agenda Item D.

3 This is our semi-annual report to the Board on
4 enforcement orders issued by LEAs from February 2003
5 through October 2003, and an update to the Board on orders
6 previously reported.

7 Sue O'Leary is going to provide the presentation
8 on this.

9 I want to note that this is our fifth, I believe,
10 semi-annual update. We've been doing this since late 2001
11 to provide you with, you know, periodic information on the
12 status of enforcement orders that have been issued by
13 LEAs. And we have a number of staff in the audience if
14 you have specific questions on particular orders. And
15 we'll answer those as best we can today for you.

16 Sue.

17 MS. O'LEARY: Good afternoon, Mr. Chairman and
18 Committee members.

19 As Howard indicated, this is the fifth update
20 report to the Committee on enforcement notice and orders
21 issued by local enforcement agencies and is an information
22 item. The information within the agenda item is organized
23 in the same manner as the previous four reports.

24 I will be providing a brief summary of the data
25 we have collected. And Permitting and Inspection staff

1 are prepared to answer your specific questions on orders
2 within their counties.

3 In addition to our staff, Ms. Lori Holt from
4 Riverside County -- she's the LEA -- is available to
5 answer questions related to her notice and orders. I
6 believe there are several other LEAs in the audience as
7 well.

8 There is one update I'd like to point out to you
9 on your agenda item since our notice and order went into
10 BAWDS. One facility's status has changed. And this is on
11 page 31 of your agenda item. It's the City of San Diego
12 LEA, Evergreen Nursery. I should say -- rather than say,
13 "Compliance pending," it should say, "Compliance
14 achieved."

15 And that was just a -- we missed that. And that
16 will also result in a change to the first page of your
17 agenda item, page 1, section 5, Analysis. A. Key issues
18 and findings, on line 8. Your numbers will change. Add
19 one to "complied" and one less to "pending" -- take one
20 away from "pending." So I think we're 9 complied and 14
21 pending.

22 In today's report, I will provide status
23 information on a total of 46 orders. Twenty-three orders
24 that have been previously reported to you and the Board at
25 the September 17-18, 2002, and April 23rd, 2003, Board

1 meetings. And I'm going to talk about these 23 orders
2 first.

3 Of these 23 orders, 12 have been complied with
4 and 13 have not been complied with. In the past, there
5 have been questions and requests by the Committee members
6 for an analysis on the public-private distribution of the
7 orders and statistics that go along with the orders. So
8 I've summarized the data in that following manner.

9 So we're 1st going to talk about the publicly
10 owned facilities.

11 Of the 23 orders, 13 of the facilities having
12 orders are publicly owned. And of those 13 orders,
13 compliance has been achieved at 10 of the facilities since
14 the April 23rd, 2003 board meeting. That leaves three
15 facilities where compliance is pending.

16 The issues that are still remaining for those
17 three facilities include landfill gas at two of the
18 facilities and the traffic CEQA issue at one facility.

19 So that's 13 of the 23 will be called old orders.

20 Second is the privately owned facilities. There
21 are 10 of those. And of the 10 orders, compliance has
22 been achieved at two of the facilities since the April
23 23rd, 2003, Board meeting. So that leaves eight
24 facilities where compliance is pending.

25 Some of the issues for those eight facilities

1 with orders pending include three facilities that are
2 pursuing appeals, one facility that's in port, one
3 facility where the owner declared bankruptcy and then the
4 county has pursued a lien on the property, one facility
5 that is pursuing CEQA, one order needing an amendment, and
6 one order where we need an update from the LEA.

7 So those are the -- what we call the old orders.
8 Those are the ones that you've heard before.

9 Now I'm going to talk about what I call the new
10 orders, those that have come into the Board between
11 February 28th, 2003 and October 31st, 2003. There happen
12 to be coincidentally 23 of those orders. And I've divided
13 them also into the public-private distribution.

14 Of the 23 orders, in this case we have eight of
15 the facilities are publicly owned. And of those eight,
16 four have achieved compliance since we received the orders
17 after 28th and four are still pending.

18 So the issues that are pending are completion of
19 permitting documents and revisions for three of the four
20 facilities and achieving compliance with the state minimum
21 standards and terms and conditions of the permit for one
22 facility.

23 Fifteen of the 23 facilities are privately-owned
24 facilities. And of those 15 orders, five have achieved
25 compliance since February, 28th, 2003. That leaves ten

1 where compliance is pending.

2 And issues for the ten facilities with orders
3 pending include seven facilities with no solid waste
4 facilities permit or an illegal dumping situation, one
5 facility with a landfill gas issue, one facility with an
6 appeal or a facility design and operation issues, and one
7 facility needing new enforcement action for state minimum
8 standards, CEQA and permit document issues.

9 Now, this concludes the staff presentation. If
10 you have any questions on specific orders, staff from the
11 Permitting and Inspections Branch as well as Ms. Holt are
12 available to answer your questions.

13 If you have anything about -- questions about the
14 numbers, I'll be glad to elaborate for you.

15 CHAIRPERSON PAPARIAN: Questions, members?

16 Mr. Jones.

17 COMMITTEE MEMBER JONES: The facilities that do
18 not have solid waste facility permits, with the exception
19 of one that I'm familiar with here in Sacramento, are
20 these -- how many of these are processing facilities of
21 single stream?

22 MS. O'LEARY: Of what?

23 COMMITTEE MEMBER JONES: Single-stream
24 recyclables. I mean what kind of facilities are these?
25 Are they real transfer stations or are they residual-type

1 issues?

2 MS. O'LEARY: I believe two are just straight
3 illegal dumping. And then -- let me see how many I have
4 here. I think the remaining five are a combination of
5 facilities that were accepting green waste and/or C&D
6 debris and were trying to process it -- either compost it
7 or process it without a solid waste facilities permit.

8 COMMITTEE MEMBER JONES: Okay. So they were --
9 they've just recently been included or -- semi-recently
10 been included into the regulatory structure?

11 MS. O'LEARY: Right, these are all in our new
12 orders issued between February 28th and October 31st.

13 COMMITTEE MEMBER JONES: All right. I appreciate
14 that. Because I was starting to get nervous, and I was
15 trying to figure out what the heck happened.

16 So if they're the ones that get caught because of
17 new regs, they are -- as part of their compliance, they're
18 in the process, I'm sure, of starting to assemble the
19 information they need and all that stuff and that's part
20 of the compliance order.

21 MS. O'LEARY: Yeah. I think the LEAs in those
22 jurisdictions are doing an excellent job in catching up
23 with those facilities on a timely basis.

24 COMMITTEE MEMBER JONES: Thanks. I appreciate
25 that.

1 Thank you.

2 CHAIRPERSON PAPARIAN: Can I just follow up on
3 that. The ones that were not single stream, that were --
4 did you say there were --

5 MS. O'LEARY: -- two I believe that are just
6 straight illegal dumping.

7 CHAIRPERSON PAPARIAN: Two are just illegal
8 dumping. And how are things going in terms of dealing
9 with those two facilities?

10 MS. O'LEARY: Well, I think I will defer to the
11 staff on that. And those are --

12 CHAIRPERSON PAPARIAN: Okay. One of them is the
13 Sacramento facility, or no?

14 MS. O'LEARY: No, I believe both in Fresno
15 County. And one is the Fowler facility and one is Truxell
16 and Valentino.

17 And maybe Virginia Rosales could answer those.

18 DEPUTY DIRECTOR LEVENSON: While Virginia's
19 coming up I'll just indicate that on the Sacramento
20 facilities, the Florin-Perkins situation, the current date
21 for the next court hearing on the -- I believe it's on the
22 hearing panel itself is the end of January. So we're
23 still waiting on that. The LEA has certainly taken the
24 actions needed, but we've been stymied by the court of
25 appeals.

1 CHAIRPERSON PAPARIAN: Okay. So it looks like
2 these two in Fresno on pages 21 and 22 of our agenda.

3 MS. ROSALES: The City of Fowler, the LEA is
4 here. But I'll just briefly explain the updates that
5 we've received. They are still working on that. There is
6 work to do there. And I'm not sure how much longer. If
7 the LEA told me, I've forgotten. But they are still
8 working on that.

9 As far as the Truxell and Valentino, there were
10 two operators on that site. One has completely cleaned up
11 their area. The other ran out of money, was not able to
12 complete that. So the land owner, which is the Sierra
13 Madre Nursery, has taken over on that. And they are
14 expected to have that all cleaned up by December 27th.

15 CHAIRPERSON PAPARIAN: Okay. Then the first one,
16 the Fowler one, can you just give me a sense of the scale
17 of what we're talking about, the nature of the --

18 MS. ROSALES: I'm going to defer that to the LEA,
19 Randy Reyes, and ask him to come up and speak to that a
20 little bit, please.

21 MR. REYES: Good afternoon, Chairman.

22 The Fowler site is relatively small. It was --
23 we were asked by the City of Fowler itself to help them
24 remediate that site. The majority of the waste was more
25 junk than anything else. He was a junk collector. And

1 there was removal of cars and a sort of debris and trash
2 from the standpoint of he was a collector of junk.

3 He did have some piles of gypsum that he was
4 bringing in. That has been removed. He had a lot of wood
5 that he is currently chip and grinding and also selling,
6 that the City of Fowler's going to allow him to do, and
7 which he's been doing.

8 So I would say probably 50 percent of the site
9 has been cleaned. And he as sort of a motivation to get
10 it cleaned anyway. He has somebody that is looking at
11 buying the property, a developer. So he's working as fast
12 as he can with the staff that he has.

13 We're hoping that he can do this on his own
14 instead of coming to you guys to have it cleaned. I'm
15 hoping and the City of Fowler is hoping that he can handle
16 this on his own.

17 So we're allowing him more time to try to beat
18 that deadline. If he doesn't, then we would probably come
19 back to the Board for cleanup costs.

20 COMMITTEE MEMBER PEACE: Because here it says he
21 was supposed to have this all cleaned up by July 14th.

22 MR. REYES: Yes. And he -- again, this guy is an
23 older gentleman. There was just two older gentlemen. And
24 he had -- a lot of the resources he has is whatever he's
25 made bringing in junk and selling. He doesn't have a lot

1 of money. But it was something that the City of Fowler
2 had asked to hold off any legal stuff on him to try to
3 give him an opportunity to clean his own site.

4 We okayed that, with the understanding that if
5 any kind -- if work stops at any time, we would pursue the
6 cleanup of that site through state grant monies. But
7 he's -- the only reason we haven't started anything on
8 him, because we do allow him an opportunity to try to
9 clean his own site, and he is doing that. I mean he's
10 not --

11 COMMITTEE MEMBER PEACE: He's making progress?

12 MR. REYES: He's making progress, yeah. It's
13 slow, but he's making progress.

14 And then the other site, the Sierra Madre site,
15 that is almost clean. Matter of fact that should be clean
16 prior to the next month's Committee meeting.

17 CHAIRPERSON PAPARIAN: Do you have something more
18 on this, Mr. Jones?

19 COMMITTEE MEMBER JONES: Just -- if the one guy
20 owns that property and doesn't have the wherewithal and
21 somebody may be buying it, you need to remind him that we
22 go after cost recovery.

23 MR. REYES: Oh, definitely. He understands.

24 COMMITTEE MEMBER JONES: And our cost is going to
25 be a heck of a lot more than his costs.

1 MR. REYES: Exactly. And as a matter of fact
2 we've had -- the City of Fowler and ourselves, were out
3 there, and he understands that.

4 COMMITTEE MEMBER JONES: Okay. I just thought
5 I'd reiterate.

6 MR. REYES: No, he understands.

7 CHAIRPERSON PAPARIAN: Okay. Thank you very
8 much.

9 MR. REYES: Sure.

10 CHAIRPERSON PAPARIAN: And then, I don't know.
11 Is the Sonoma County LEA here? No. I just wanted to --
12 and I noted that in the Sonoma County situation, they did
13 pursue some fines against a facility. And I wanted to
14 compliment them for being willing to go out there and do
15 that when they thought it was appropriate even though
16 the -- I'm sure the amount of hours they put in to try to
17 collect the fine, they're not going to make money off of
18 this. But I think it does send a signal that, you know,
19 if you're not doing things properly, you do have the
20 potential of getting fined.

21 Mrs. Peace, did you have something else?

22 COMMITTEE MEMBER PEACE: When a facility is
23 operating outside the terms and conditions of their
24 permit, what is the possible penalty?

25 MR. de BIE: Mark de Bie with Permitting and

1 Inspection.

2 There are penalties that an LEA can list out in
3 their notice and order. And they can choose to put all of
4 the ones that are prescribed in regulation or, you know, a
5 subset of those.

6 And they -- they're administrative civil
7 penalties, civil penalties. A penalty could be revocation
8 of the permit if there is a permit involved. Suspension
9 of the permit could be included. So there's any number of
10 penalties that could be included in the notice and order.

11 COMMITTEE MEMBER PEACE: So you don't see very
12 many of them. Mike said I think there's one. Like Mr.
13 Paparian said, there's one that put some penalties on,
14 which I was glad to see. But most of these, they don't --
15 have not put any penalties in place or anything on these.

16 So it's the LEAs job to do it, or could we ask
17 them to do it or --

18 MR. de BIE: It's a multiple-step process. The
19 first step is to notice the operator of, you know, the
20 compliance issues and the penalties that would follow if
21 they failed to comply with the order.

22 And so if the operator fails to comply with the
23 order, then certainly the LEA could step in and levy the
24 penalties. And I think that's the situation that has
25 occurred in Sonoma County, where the LEA noticed the

1 operator of certain things that must be done by certain
2 dates, the operator failed to comply with those dates --
3 those compliance dates, complete those tasks, and so the
4 LEA issued the penalties for that aspect.

5 If you have an outstanding order that is yet to
6 be complied with, the compliance dates have not come yet,
7 then the LEA would not be in a penalty phase.

8 We have not seen and do not see orders written
9 where the LEA issues the notice and order, and then along
10 with that, almost simultaneously, levies some sort of
11 penalty.

12 It's usually noticing of what the issues are,
13 ordering some certain action and then indicating what the
14 penalties are. And if they fail to comply with that
15 aspect, then the penalties follow.

16 We've changed regulations recently to indicate in
17 reg what can be allowed to occur in terms of changing your
18 operations inconsistently with state minimum standards.
19 We have that stipulated agreement mechanism in place that
20 indicates under, you know, certain situations and a
21 stipulated agreement could be issued to allow someone to
22 go beyond the terms and conditions of the permit.

23 When those regulations were developed, they did
24 not include a restriction on an LEAs ability to
25 potentially write a notice and order that would allow an

1 operator to continue to operate outside the terms and
2 conditions of the notice and order until they reached
3 compliance. That is still -- can be viewed to be within
4 the discretion of the LEA through statute.

5 However, you know, given the stipulated agreement
6 regulations, we always point the LEAs towards those. And
7 to my knowledge, looking -- and also looking at this item,
8 we've not seen any orders written since those regulations
9 came into place earlier this year that do allow LEAs to go
10 beyond the terms and conditions through that order. It's
11 only the older orders or orders that were issued, that
12 sort of supercede or were based on previous orders, that
13 take that approach.

14 So we're seeing the newer orders issued after
15 those regs came in are not allowing operators to go beyond
16 the terms and conditions.

17 So I think the stipulated agreement mechanism is
18 working, you know, if evidence that we're not seeing those
19 orders anymore. So I -- you know, if that's reality, I
20 wouldn't expect to see anymore like we have in the past.
21 But, again, there is the probability that that could occur
22 because, again, we've not removed that through regulation.
23 And LEAs do have some discretion to do that through
24 statute. It's not really clear whether or not they can.
25 I mean it's clear to the point where we're pointing them

1 to this process, the stipulated agreement process, to
2 utilize, which kind of steers them away. But, again, they
3 still have the ability to write a notice and order that
4 would allow the current state to continue to occur until
5 they reach compliance.

6 COMMITTEE MEMBER PEACE: Well, like in cases,
7 say, on -- I think it's page 311, the Tehachapi Recycling,
8 where they would -- says they alleged intentional release
9 of seepage. It seems to me when places do things
10 intentionally that they know they shouldn't be doing, that
11 they should somehow get a fine or something for doing
12 something like that. They do things intentionally or they
13 know they're taking in materials that they're not supposed
14 to take in.

15 MR. de BIE: That's -- yes, I think the ability
16 for the LEA to, you know, basically notice and perhaps
17 have a very short timeframe to take an action which could
18 result in some sort of penalty could be established. But
19 the focus of the regulations, the statute, is to notice
20 what the problem is, tell them what they have to remediate
21 to come into compliance. And then if they fail to abide
22 by that order, then levy the penalty.

23 It's not really set up to tell them what's wrong
24 and give them a penalty and then they have to fix it.

25 COMMITTEE MEMBER PEACE: So it's not set up to

1 give a penalty if they do something knowingly wrong? So
2 they knowingly know they're not supposed to take
3 contaminated soil, they knowingly know they're not
4 supposed to leak out all their yucky stuff. But they just
5 do it anyway because they figure, "Oh, they'll just tell
6 me not to do it and then I won't have any fine to pay," is
7 that --

8 MR. de BIE: I can only attest to, you know, sort
9 of how things are done. And it's atypical, if at all,
10 where someone would step in and issue a penalty without
11 going through a notice and order process.

12 But Howard wants to expand on that.

13 DEPUTY DIRECTOR LEVENSON: Yeah, if I could just
14 add in on taking that particular example. They did
15 achieve compliance within a few months of the order being
16 issued. So I think there is an issue of what's the
17 primary objective? Is it to achieve compliance or -- and
18 how do penalties work into that?

19 With AB 1497 having been enacted now, after the
20 turn of the year LEAs will have a higher -- well, there
21 will not be a threshold on the kinds of penalties --
22 administrative civil penalties they can levy. So one
23 might expect more attention to be paid to that mechanism
24 since there would not be a cap on it. Up to now it's been
25 capped and --

1 COMMITTEE MEMBER PEACE: But there's not very
2 much money to --

3 DEPUTY DIRECTOR LEVENSON: Yeah.

4 COMMITTEE MEMBER PEACE: And then in terms of the
5 Florin-Perkins, I know they keep appealing and there's
6 stays. Is there any way that -- I mean can fines be
7 accumulating while they're going through this process? Or
8 what happens when they keep staying and appealing and --

9 ACTING CHIEF COUNSEL BLEDSOE: I notice that the
10 LEA for Sacramento is here. It's my sort of general
11 understanding that that is something that may be occurring
12 specifically with Florin-Perkins. But maybe we can ask
13 Steve or Tammi to come up and speak to the question of
14 accumulating fines while an order's going through the
15 appeal process.

16 MR. CALVAGE: Hi. Steve Calvage with Sacramento
17 County LEA.

18 In answer to your specific question, we write the
19 notice and order. And in that we advise them that failure
20 to comply will result -- could potentially result in these
21 penalties, and list the Administrative Code sections and
22 the Public Resources sections that say these are the
23 penalties.

24 And it has been and is our intent to accumulate
25 those penalties from the day of noncompliance until the

1 day of compliance.

2 Now, when the notice and order is issued we give
3 them 10 days, 20 days, 30 days, depending on the
4 practicality of resolving the issue and the steps that
5 need to be taken. The time varies, but usually it's 10,
6 20, 30 days, something like that.

7 At that time, if they did not comply by the order
8 date, in our mind the penalty applies. Now, having stated
9 that we intend to collect it and actually collecting it
10 appears to be a tremendous problem for us. But we do
11 intend to pursue that. And if that scenario would work
12 out where we collected the penalties from the day of
13 actual noncompliance with the order, which would be "We
14 gave you so many days to comply. You didn't," there would
15 be some quite tremendous penalties involved because we're
16 into months of noncompliance now.

17 Did that answer?

18 COMMITTEE MEMBER PEACE: Yes. Why would it be so
19 hard for you to collect the money? Is it because they
20 don't have it or -- I mean why do you say they're accruing
21 but it might be hard to get?

22 MR. CALVAGE: The problem has been getting a
23 hearing set and hearing it, to move through the process of
24 hearing, then their potential appeal to this Board,
25 potentially an appeal to Superior Court. So we're

1 confident that we have effectively documented the
2 violation. And if we can ever get a day in court, we're
3 confident that we can prevail.

4 So my reluctance is not that we have an
5 unsubstantial case or that it won't be supported.
6 Typically, when these penalties are invoked, it's up to X
7 amount of dollars. Could be a thousand dollars a day. My
8 experience in enforcement and penalties in other areas
9 with our environmental health programs is that there is a
10 reevaluation or an evaluation of the amount of the penalty
11 as that pursues the process, and it may be half of that
12 amount, it may be the full amount. Typically, it has been
13 less than the full amount. But still, given that we're
14 into hundreds of days on these penalties, we would expect
15 hundreds of thousands of dollars. I have no idea if that
16 will occur.

17 COMMITTEE MEMBER PEACE: And of course with
18 Florin-Perkins, let's say they're going to go past January
19 2004, then we can really even fine them more, right?

20 MR. CALVAGE: We've advised them that --

21 COMMITTEE MEMBER PEACE: A 1497 --

22 MR. CALVAGE: -- right, there are other things
23 that could be coming.

24 When a notice and order takes place it kind of
25 frees that date in time. But if future notice and orders

1 are written, we would anticipate using all available
2 pressure points to encourage compliance.

3 COMMITTEE MEMBER PEACE: Yeah. Well, good luck.
4 I know you've worked hard on that one.

5 MR. CALVAGE: Thank you.

6 COMMITTEE MEMBER PEACE: Okay. Thank you.

7 CHAIRPERSON PAPARIAN: Mr. Jones.

8 COMMITTEE MEMBER JONES: Thanks, Mr. Chair.

9 Do you have somebody out at that site looking for
10 delivery of solid waste other than the stuff they're
11 supposed to say they're taking like C&D and some organics?
12 Do you have anybody out there watching the deliveries of
13 MSW?

14 MR. CALVAGE: On a daily basis, no. We're
15 inspecting them three times a month. So we're out there
16 almost every week. And when we're out there we're looking
17 at what's coming in and out.

18 COMMITTEE MEMBER JONES: Because it always amazed
19 me the amount of trucks that left other counties heading
20 for that facility. And I know what they were hauling. So
21 you know what, that's outside of this cease and desist.
22 That's a violation of -- that's a whole different
23 violation that could warrant some stiffer action, because
24 they are prohibited from taking MSW, correct?

25 MR. CALVAGE: Actually, they're not. They have a

1 permitted transfer station on the site.

2 COMMITTEE MEMBER JONES: I'm talking about at
3 their landfill, their, quote-unquote, recycling landfill.

4 MR. CALVAGE: You're aware that there's one gate
5 coming in and one weigh station, and they've got three
6 different things --

7 COMMITTEE MEMBER JONES: Yeah, but the road
8 doesn't go through the transfer station, you know. You
9 need to divert left or right to get there. So --

10 MR. CALVAGE: Correct.

11 Any information we can get, we're willing to
12 pursue.

13 COMMITTEE MEMBER JONES: Yeah, I mean I'd put
14 somebody out there 24 hours a day.

15 MR. CALVAGE: Yeah, we would love to have the
16 state come and help us with that staffing.

17 (Laughter.)

18 COMMITTEE MEMBER JONES: Seeing as it's taken
19 this long, you may need us to come and help you.

20 CHAIRPERSON PAPARIAN: Well, thank you for
21 sticking with it. I know that this has been a real
22 challenging one, probably one of the most challenging ones
23 to deal with that any LEAs come across.

24 Howard, getting --

25 MR. de BIE: Mr. Chair? I'm sorry.

1 CHAIRPERSON PAPARIAN: Yes, go ahead.

2 MR. de BIE: Just to follow up on this penalty
3 issue, I'm noticing on page 14, the River Ranch Organics
4 was a longstanding issue. It did go through the process.
5 It went to an appeal hearing. And the LEA did get a
6 settlement agreement of a hundred thousand dollars to put
7 towards cleanup. And Scott Walker has additional
8 information about that particular situation. There's been
9 a request received very recently about maybe the State
10 aiding the LEA with that site.

11 MR. WALKER: Scott Walker, Permitting and
12 Enforcement Division. I'll make this really quick.

13 This is one of the top three Crippen-like sites
14 that we identified March of last year.

15 At the time there was a settlement agreement that
16 the LEA was attempting to work with the property owner to
17 finish a cleanup of the site. They told us to kind of --
18 that they were working with them and to hold off, that
19 we're getting it -- dealing with it.

20 Well, November 12th the LEA went back to court
21 and received a judgment against the property owner for
22 funds that were put in an escrow account for the cleanup.

23 And the LEA right now is -- our understanding,
24 they've contacted the cleanup program to inquire. And
25 we've given them some information. And we anticipate that

1 we will be receiving a request. They're going to -- I
2 believe they're going to consider it in the near term at
3 the County Board of Supervisor's meeting. And so it's
4 possible that -- possibly in February we might have some
5 options for consideration. But, again, we're reviewing
6 the situation.

7 There's about a hundred thousand cubic yards of
8 processed compostable organic, basically wood waste
9 material at the site. And so this one may be coming
10 before you in the coming months under the cleanup program
11 because it's reached the stage of the final court
12 judgment. And so that's kind of where we stand on that
13 one right now.

14 DEPUTY DIRECTOR LEVENSON: I'd just add that
15 that's one of the three high priority sites that we
16 identified in the C&D inventory earlier this year, along
17 with the Bethencourt and Florin-Perkins.

18 COMMITTEE MEMBER PEACE: Yeah, I guess I just
19 want to say it's -- our goal shouldn't just be to get
20 these places to comply. It's a good goal, but it
21 shouldn't just be compliance. But also we should have --
22 want to -- whatever we do to be a deterrent to bad
23 behavior in the first place.

24 CHAIRPERSON PAPARIAN: Yeah, and I -- I agree
25 with that. And hopefully with the new fine structure we

1 can accomplish that more effectively. Because I think
2 it's important for folks to realize that if they engage in
3 something that's inappropriate, they're not going to face
4 a situation where the worst case is they'll just have to
5 comply with the law.

6 You know, the worst case ought to be worse than
7 that. It ought to be a fine so that that could then serve
8 as a deterrent. You know, if you're an operator on the
9 edge and the worst that could happen to you is that you're
10 just asked to comply with the law if you violate the law,
11 then, you know, you're more tempted to violate I think
12 than if you had some additional penalties potentially that
13 could be levied against you.

14 Mr. Jones.

15 COMMITTEE MEMBER JONES: I can't let those two
16 comments go.

17 CHAIRPERSON PAPARIAN: Okay.

18 COMMITTEE MEMBER JONES: You know, I really
19 disagree. I think it is our job to seek compliance. And
20 I think that all you have to do is look at the history of
21 this Board and what it's done to get facilities in
22 compliance. You're talking in most cases about some
23 pretty -- you're talking about areas in some cases that
24 are strictly left up to the interpretation of the person
25 that's out at the site inspecting.

1 I mean when I look at Sonoma County and I see
2 that they fined Central Composting -- I think Central is
3 the one that's located at the landfill. So this is a site
4 that is used as an experimental playground for this Board
5 in coming up with how we're going to deal with clopyralid,
6 how we're going to deal with Sudden Oak Death, how we're
7 going to deal with all these other things. It had an odor
8 problem, I guess. I mean that's what I read in the thing.
9 It had an odor problem from the composting facility based
10 on what, the delivery of organic waste? Or the fact that
11 it was on a landfill?

12 A lot of these things are up to a person. And it
13 makes more sense to get somebody into compliance than it
14 does to think that -- you think \$500 means a whole lot to
15 any operation that's bringing in tonnage? You think
16 that's the deterrent? The deterrent is they don't want to
17 be included as somebody that got fined. I mean we've got
18 a cease and desist -- or an order on one solid waste
19 facility, one landfill that is pending a bridge being
20 built over a state highway.

21 Let's start fining them. I mean that should put
22 the state -- CalTrans feeling pretty good that they're
23 getting pressure not only from them but from the Waste
24 Board, that we'll start fining them because they don't
25 have a bridge.

1 I mean some of this stuff is pretty innocent,
2 some of it -- you know, when somebody's breaking a law, we
3 ought to stop it. But, you know, we talk about stipulated
4 orders. You can't use a stipulated order if there is a
5 threat to public health, safety, or the environment. So
6 the fact that most of these are stipulated orders means
7 they do not rise to the level of concern for people's
8 health, safety, or the environment.

9 And, you know, I love the fact that our staff and
10 this Board works with LEAs and operators to bring them
11 into compliance to make them better understand the law.

12 We've got some clowns out there that understand
13 how to play the system. And they shouldn't be allowed to
14 do that. But you know what, it's still part of the way
15 the rules are written. And \$500 is not going to stop
16 somebody.

17 What amazes me is -- I'd love to know what that
18 fine was for, you know. Because that composting facility
19 sits on top of the landfill. So it's kind of interesting
20 that a whole \$500 fine was issued on that if it was
21 odor -- if it was in regards to odor depending upon when
22 they got the material and how it had been sitting
23 somewhere. It could have been the source of the odor.
24 Who knows.

25 So hopefully we'll keep working on compliance.

1 CHAIRPERSON PAPARIAN: Just to --

2 COMMITTEE MEMBER PEACE: Compliance is a goal,
3 but it shouldn't be the only goal. I'm not talking about
4 penalties in terms of what situations you mention. I'm
5 talking about in situations where like they start taking
6 contaminated soil and sludge when they know they're not
7 supposed to, when they intentionally do things --

8 COMMITTEE MEMBER JONES: That's not what that
9 order says. That order didn't say they intentionally took
10 it. It said it commingled.

11 COMMITTEE MEMBER PEACE: But there -- it was a
12 place where -- I don't know which one it is now. But also
13 there's one that they allegedly intentionally released
14 seepage -- released seepage within the green waste
15 collection.

16 Okay. When they do things intentionally that
17 they know they're not supposed to do, I believe there
18 should be more of a penalty. Not when they accidentally
19 or because of something that happened in their community,
20 they had to do it, or there was a real reason for it. But
21 not just, "Oh, we know we can't take that and it's not in
22 our permit, but, yeah, I think we'll take it anyway." I
23 think there should be a penalty for that.

24 CHAIRPERSON PAPARIAN: And then just to be clear,
25 the facility I was referring to was not the Central

1 Compost facility but the Healdsburg Transfer Station. And
2 I think there was a \$3,264 total of fines on that one
3 related to facility cleaning, facility drainage, removal
4 of waste, notification of emergencies, and inadequate fire
5 suppression equipment.

6 And if you look on 18 and 19, that's where those
7 descriptions are. And I think that, again, even as small
8 as \$3,200 is, I think that it does serve as a deterrent.
9 I think that people do not want to get fined. There's a
10 stigma associated with fines. And hopefully when we get
11 after the first of the year and have the authority to
12 potentially levy some additional fines, that that
13 deterrent will help to assure compliance and avoidance of
14 having to engage in these notice and orders to begin with.

15 So obviously we have some slight differences in
16 the nuances of our compliance program here on the Board.
17 But I'm sure we'll continue to have these debates in the
18 future.

19 COMMITTEE MEMBER JONES: No problem.

20 CHAIRPERSON PAPARIAN: Okay. I think we're ready
21 to go to the next item.

22 Okay. Go ahead.

23 DEPUTY DIRECTOR LEVENSON: Okay. Item E. We now
24 move into a series of four solid waste facilities permits
25 to wrap up the meeting.

1 Item E is consideration of a revised Full Solid
2 Waste Facilities Permit (Disposal Facility) for the Lamb
3 Canyon Sanitary Landfill in Riverside County.

4 And Willy Jenkins Will be presenting this and the
5 next item.

6 MR. JENKINS: Good afternoon, Mr. Chair and
7 members of the Committee.

8 Also here today for this item are Lori Holt of
9 the LEA and John -- excuse me -- Joseph McCann, and Fahd
10 Meena of the Riverside County Waste Management
11 Department.

12 The proposed permit revision will allow the
13 following changes:

14 An increase in the landfill acreage, an increase
15 in the site capacity, an increase in the depth of the
16 waste, an increase in tonnage, an increase in vehicle
17 counts, a change in the closure date, a decrease in the
18 landfill permitted acreage, and a change in hours of
19 operation.

20 When Agenda Item 4 was prepared for the proposed
21 changes, Board staff had not completed the analysis for
22 the proposed project. As of this morning, staff in
23 agreement with the LEA and the owner-operator will receive
24 additional information by Friday of this week.

25 The changes involved joint technical document

1 amendments and closure and post-closure cost estimates.

2 Because staff has not been able to complete their
3 reviews, staff has no recommendation for the Board on
4 Resolution No. 2003-504 and Solid Waste Facility Permit
5 No. 33-AA-0007.

6 This concludes staff's presentation. And I'm
7 able to answer any questions.

8 CHAIRPERSON PAPARIAN: Okay. Because you don't
9 have everything you need yet to make a recommendation, you
10 need to get that and take a look at it before you can make
11 a recommendation?

12 MR. JENKINS: That's correct.

13 CHAIRPERSON PAPARIAN: So it sounds like this is
14 one we need to push over to the full Board meeting.

15 MR. JENKINS: Yes.

16 DEPUTY DIRECTOR LEVENSON: That's correct. And
17 staff is working with both the LEA and the operator
18 cooperatively to get that information in the next few
19 days.

20 CHAIRPERSON PAPARIAN: Okay. But we do have Ms.
21 Holt and Mr. McCann and the other person here if there are
22 any questions.

23 Are there any questions about this permit?

24 COMMITTEE MEMBER PEACE: I have a question.

25 CHAIRPERSON PAPARIAN: Yeah. Go ahead, Ms.

1 Peace.

2 COMMITTEE MEMBER PEACE: It says here Phase 1,
3 most of it is unlined, and then five acres of it is lined.
4 They say that Phase 2 will overlap a portion of Phase 1.

5 Will the Phase 2 be overlapping a portion of
6 Phase 1 that's lined or unlined or both?

7 MR. JENKINS: Yes, it's lined.

8 COMMITTEE MEMBER PEACE: So it's only going to
9 overlap Phase 1 on the lined portion?

10 MR. JENKINS: Well, Phase 2 will overlap Phase 1.
11 All of Phase 2 will be on a liner.

12 COMMITTEE MEMBER PEACE: All the new part -- the
13 part that overlaps Phase 1, is it going to overlap Phase 1
14 in the Phase 1 part that's lined or will it overlap part
15 of the Phase 1 that's unlined?

16 MR. JENKINS: Yes, the overlapping part is lined
17 over Phase 1.

18 COMMITTEE MEMBER PEACE: So where it overlaps,
19 they'll line that part?

20 MR. JENKINS: Correct.

21 COMMITTEE MEMBER PEACE: Okay. Thank you.

22 MR. JENKINS: You're welcome.

23 CHAIRPERSON PAPARIAN: Okay. So, again, I think
24 we need to put this over until you can -- and then we can
25 all get the full information.

1 And then just FYI, I -- I'm not sure, Mrs. Peace,
2 if you had a copy of the resolution or not. I didn't have
3 a copy -- you may need to distribute copies of whatever
4 resolution you have. I'm not sure all of us got it.

5 MR. JENKINS: Okay.

6 CHAIRPERSON PAPARIAN: The resolution for this
7 item.

8 MR. de BIE: This is Mark de Bie with P&I. It
9 seems that that did not, for some reason, get into the
10 packet. We'll need to potentially revise it anyway,
11 depending on what we get back from the LEA and the
12 operator. So I'm sure one way or the other you'll get the
13 original or the revised version of the resolution.

14 CHAIRPERSON PAPARIAN: Okay, good, good.

15 Okay. We can move to the next item.

16 DEPUTY DIRECTOR LEVENSON: Okay. Item F is
17 consideration of a revised Full Solid Waste Facilities
18 Permit (Transfer Processing Station) for the Moreno Valley
19 Solid Waste Recycling and Transfer Facility in Riverside
20 County.

21 Willy will again be making that presentation.
22 And he will be referring to the material just handed out
23 to you on the revised permit and resolution.

24 MR. JENKINS: The Moreno Valley transfer station
25 permit was last revised in March of 1998. The proposed

1 permit revision would allow the following changes:

2 Change the permitted hours from 7 a.m. to 6 p.m.,
3 Monday through Saturday to 24 hours per day, Monday
4 through Saturday. It would eliminate the traffic
5 generation table for daily vehicle counts. It would also
6 change the name for the owner-operator. And it would
7 eliminate the listing of a separate -- separated or
8 commingled recyclables as a separate tonnage count.

9 Recently the operator requested additional
10 changes to the permit. And you should have a copy of that
11 permit.

12 The changes that were proposed are -- the first
13 one is on page 1, No. 5 of the specifications, Item C.
14 The permitted tons per operating day, the separator of
15 commingled recyclables line was removed. And that
16 total -- that is now listed at one total tonnage for the
17 sight.

18 On page 2, No. 15, the transfer processing report
19 date was incorrect. And that was corrected to October
20 2000.

21 On page 3, Item No. 17(d) of the conditions,
22 clarifying language was added to this condition.

23 And then because of the change on page 1, the
24 resolution was modified to reflect this change. So in
25 your resolution, in the second paragraph where it

1 describes the proposed changes, what was added is -- the
2 following change was added: "The elimination of separated
3 or commingled recyclables as a separate tonnage count."
4 And that was the only change to the resolution.

5 There are no issues or opposition to the proposed
6 permit revision. The Board staff has determined that all
7 of the requirements for the proposed revised permit have
8 been fulfilled, including the completeness of the transfer
9 processing report.

10 In conclusion, staff recommends that the Board
11 adopt Board Resolution No. 2003-508 for Solid Waste
12 Facility Permit No. 33-AA-0234.

13 CHAIRPERSON PAPARIAN: Any questions, members?

14 Mrs. Peace.

15 COMMITTEE MEMBER PEACE: Nope.

16 I would like to move Resolution No. 2003-508,
17 consideration of a revised Full Solid Waste Facilities
18 Permit (Transfer Processing Station) for the Moreno Valley
19 Solid Waste Recycling and Transfer Facility, Riverside
20 County.

21 CHAIRPERSON PAPARIAN: And I think that would be
22 Resolution 2003-508 revised.

23 BOARD MEMBER JONES: Second.

24 CHAIRPERSON PAPARIAN: Mr. Jones seconds that
25 motion.

1 Secretary, call the roll.

2 SECRETARY KUMPULAINIEN: Jones?

3 COMMITTEE MEMBER JONES: Aye.

4 SECRETARY KUMPULAINIEN: Peace?

5 COMMITTEE MEMBER PEACE: Aye.

6 SECRETARY KUMPULAINIEN: Paparian?

7 CHAIRPERSON PAPARIAN: Aye.

8 And I think this is a candidate for consent.

9 DEPUTY DIRECTOR LEVENSON: Item G is
10 consideration of a revised Full Solid Waste Facilities
11 Permit (Disposal Facility) for the Coalinga Disposal Site
12 in Fresno County.

13 Virginia Rosales will make that presentation.

14 MS. ROSALES: Good afternoon, Mr. Chair and
15 Committee members.

16 The Coalinga Disposal Site is owned by Chevron
17 U.S.A. Incorporated and operated by Fresno County
18 Department of Public Works and Planning.

19 This permit revision updates the existing 1978
20 permit. As indicated in the agenda item, there has been a
21 long-standing property ownership issue that has hindered
22 the revision of this permit. Additionally, changes in the
23 regulations have required the operator to redo documents
24 to include new and additional information to meet the
25 requirements of Title 27.

1 The facility has operated under a series of
2 notice and orders since 1994 for the overtonnage. The
3 existing notice and order requires the operator to obtain
4 a revised Solid Waste Facilities Permit by January 30th,
5 2004.

6 Also, the LEA is on an evaluation workplan that
7 requires the LEA to revise the permit by January 2004.
8 The operator and LEA have worked diligently to submit a
9 complete and correct application package to get us where
10 we are today.

11 The proposed permit will allow for the following:

12 Increase the maximum tonnage from 30 to 200 tons
13 per day; define the traffic limitation to be 75 vehicles
14 per day; define the maximum elevation to be 920 feet above
15 mean sea level; define the disposal area to be 52 acres;
16 reduce the estimated closure year from 2036 to 2029; and
17 reduce the hours of operation from 24 hours per day, 7
18 days per week, to 8 a.m. to 4 p.m., Monday through
19 Saturday.

20 Board staff have determined that all the
21 requirements for the proposed permit have been fulfilled.
22 Therefore, staff recommends the Board adopt Resolution No.
23 2003-505, concurring in the issuance of Solid Waste
24 Facilities Permit No. 10-AA-006.

25 This concludes staff's presentation.

1 Francis Coward and his staff are representing the
2 operator, along with the LEA, Hank Gill and Randy Reyes,
3 are also here to answer any questions you may have.

4 CHAIRPERSON PAPARIAN: Any questions, members?

5 Mr. Jones, any questions?

6 COMMITTEE MEMBER JONES: No.

7 CHAIRPERSON PAPARIAN: Did you have any
8 questions, Mrs. Peace.

9 COMMITTEE MEMBER PEACE: No questions.

10 It's just again we have a situation they're
11 exceeding their limit on several different occasions by
12 violating their notice and order. And no action has been
13 taken by the LEA, it said, in regards to this matter.
14 It's --

15 CHAIRPERSON PAPARIAN: Do you want to hear from
16 the LEA? I think she said they were here.

17 COMMITTEE MEMBER PEACE: Okay.

18 CHAIRPERSON PAPARIAN: Mr. --

19 MS. ROSALES: -- Randy Reyes.

20 CHAIRPERSON PAPARIAN: Mr. Reyes.

21 And if you could identify yourself again for the
22 record.

23 MR. REYES: Yeah, I'm Randy Reyes, Fresno County
24 LEA.

25 As mentioned in the summary of the report, this

1 has been a long, long process to get this facility
2 permitted. A lot of it dealing with things that were
3 occurring prior to me even taking over as supervisor of
4 this department or section.

5 A lot of it has to do with changes in the
6 regulation. I don't know if you're aware, the old permits
7 required are periodic site review when first initially
8 started this project or revision to get them revised.

9 This site is a relatively old site. It has a lot
10 of history to it. It's not a big site. Initially, it was
11 bringing in about 15 to 28 tons per day. It was basically
12 there for the City of Coalinga to take their waste out
13 there.

14 And through the years it's tonnages haven't
15 increased that much. There's relatively no environmental
16 impacts out there. Groundwater is at 200 feet. They have
17 more problems with asbestos coming down from the mountains
18 than they do from that facility.

19 The permits or the documents that were required
20 through the years as we progressed to try to get them in
21 compliance in submitting the documents, it sort of
22 followed with the periodic site review, getting that done,
23 and then the closure/post-closure financial assurance part
24 of the regulation came in and we again had to direct the
25 operator to obtain that document.

1 And then once we got through that part and they
2 were ready to submit -- and there was submittals. It's
3 not like the operator hasn't complied with our notices to
4 try to get them into compliance and get a permit. But it
5 sort of seemed to be one problem after another.

6 There was a point where -- again this operation
7 is owned by Chevron. Out in this area, there's a lot of
8 oil wells that are drilled in the past years. There was
9 one location where the operator was pulling dirt from
10 their burrow area, hit an oil slick. It was a site
11 that -- or an area that the operator wasn't aware of and
12 either was Chevron, that got into a major cleanup and
13 cost. That's one reason why I think the owners are
14 currently trying to have the county take this site over.

15 As a matter of fact that is still in litigation.
16 That is in court currently. And that has not been
17 resolved. The operator may have some more information on
18 that more than what I know.

19 And so we've -- to get it to this point, to get
20 the documents squared up and to get it to here has been a
21 challenge, believe me. The operators worked diligently to
22 get these documents done. It's not that they haven't.
23 Then, again, this site is not -- there's not a lot of
24 tonnage going out there.

25 And as far as the future of it, the operator

1 might be able to give you more light on that.

2 COMMITTEE MEMBER PEACE: Okay. So this permit
3 revision will finally bring them all into compliance?

4 MR. REYES: Yes, it will. Thank God.

5 COMMITTEE MEMBER PEACE: Okay. Thank you.

6 CHAIRPERSON PAPARIAN: Okay. Anything else on
7 this item?

8 Mr. Jones.

9 COMMITTEE MEMBER JONES: Thank you, Mr. Chair.

10 I'll move adoption of Resolution 2003-505,
11 consideration of a revised Full Solid Waste Facility
12 Permit for the Coalinga Disposal Site in Fresno County.

13 COMMITTEE MEMBER PEACE: Second.

14 CHAIRPERSON PAPARIAN: Okay. Motion and a
15 second.

16 Secretary, call the roll.

17 SECRETARY KUMPULAINIEN: Jones?

18 COMMITTEE MEMBER JONES: Aye.

19 SECRETARY KUMPULAINIEN: Peace?

20 COMMITTEE MEMBER PEACE: Aye.

21 SECRETARY KUMPULAINIEN: Paparian?

22 CHAIRPERSON PAPARIAN: Aye.

23 And I think this could go on consent.

24 Next and I think final item.

25 DEPUTY DIRECTOR LEVENSON: Correct.

1 Our last item for the day -- formal item is
2 Agenda Item I, consideration of a revised Full Solid Waste
3 Facilities Permit (Disposal Facility) for the Johnson
4 Canyon Landfill in Monterey County.

5 Laura Niles will be presenting this item.

6 MS. NILES: Good afternoon, Board members.

7 This facility is owned and operated by the
8 Salinas Valley Solid Waste Authority. The proposed permit
9 is to allow the following:

10 Increase the permitted daily tonnage from 300 to
11 425 tons per day; increase the permitted traffic count
12 from 76 to 125 vehicles per day; and change the hours of
13 waste receipt and operation.

14 Board staff determined the package has met the
15 following:

16 The design and operation of the facility are
17 consistent with state minimum standards; the facility is
18 identified in the countywide siting element; and the
19 California Environmental Quality Act has been complied
20 with.

21 Therefore, in conclusion, staff recommend the
22 Board adopt Solid Waste Facility Permit Decision 2003-507,
23 concurring in the issuance of the Solid Waste Facility
24 Permit 27-AA-0005.

25 Representatives of the LEA and the operator are

1 present to answer any questions you may have. Peter
2 Sheehan and Karen Scolnick and David Fisher are here from
3 the operator's office.

4 This concludes staff's presentation.

5 CHAIRPERSON PAPARIAN: Any questions?

6 Mrs. Peace.

7 COMMITTEE MEMBER PEACE: Nope.

8 This is all nice and neat. This is the kind I
9 like to see.

10 With that I'd like to move Resolution No.
11 2003-507, consideration of a revised Full Solid Waste
12 Facilities Permit (Disposal Facility) for the Johnson
13 Canyon Landfill, Monterey County.

14 COMMITTEE MEMBER JONES: Second.

15 CHAIRPERSON PAPARIAN: A motion and a second.
16 Secretary, call the roll.

17 SECRETARY KUMPULAINIEN: Jones?

18 COMMITTEE MEMBER JONES: Aye.

19 SECRETARY KUMPULAINIEN: Peace?

20 COMMITTEE MEMBER PEACE: Aye.

21 SECRETARY KUMPULAINIEN: Paparian?

22 CHAIRPERSON PAPARIAN: Aye.

23 I think this is candidate for consent as well.

24 Anything else, Mr. Levenson?

25 DEPUTY DIRECTOR LEVENSON: That is all that we

1 have from staff.

2 CHAIRPERSON PAPARIAN: Okay. Is there any public
3 comment?

4 Seeing none, this meeting is adjourned.

5 (Thereupon the California Integrated Waste
6 Management Board, Permitting and Enforcement
7 Committee meeting adjourned at 2:50 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 11th day of December, 2003.

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23 JAMES F. PETERS, CSR, RPR

24 Certified Shorthand Reporter

25 License No. 10063